

Internal Revenue Service
memorandum

CC:IT&A:Br4
MJKossar

date: OCT 18 1991

to: Manager, SCRIPS/PIPER Project Office R:R:P:S

from: Assistant Chief Counsel (Income Tax and Accounting) CC:IT&A

subject: Response to Attestation Question

Your memorandum of September 10, 1991, to the Assistant Chief Counsel (Litigation) has been referred to this office for reply. You requested our opinion concerning whether a preparer attestation submitted by [REDACTED] is acceptable for use with 1040PC and PIPER Returns. Because these returns are usually not printed in the originating office, the originating preparer may not be available to sign the return after it is printed.

Under section 6695(b) of the Internal Revenue Code, any person who is an income tax return preparer for any return or claim for refund and fails to sign the return, or fails to comply with the regulations for the return or claim, must pay a penalty of \$50 for such failure unless it is due to reasonable cause.

Under section 6695(c), the preparer is also subject to a \$50 penalty for failure to furnish an identifying number in accordance with section 6109(a)(4).

Section 6109(a)(4) of the Code requires any return or claim for refund prepared by an income tax return preparer to bear an identifying number for securing proper identification of the preparer, the preparer's employer, or both.

Under section 1.6695-1(b)(1) of the Income Tax Regulations, the income tax preparer must manually sign the income tax return or claim for refund (which may be a photocopy) in the appropriate space provided on the return or claim after it is completed and before it is presented to the taxpayer for signature. If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then manually sign it.

Under section 1.6695-1(b)(3), Ex. (4) of the regulations X employs A, B, and C to prepare income tax returns for taxpayers. After A and B have collected the information from

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the taxpayer and applied the tax laws to the information, the return form is completed by computer service. On the day the returns prepared by A and B are ready for their signatures, A is away from the city for one week on another assignment and B is on detail to another office for the day. C may sign the returns prepared by A, provided that (1) C reviews the information obtained by A relative to the taxpayer, and (2) C reviews the preparation of each return prepared by A. C may not sign the returns prepared by B because B is available.

Under section 1.6695-1(b)(4)(ii) of the Income Tax Regulations, if mechanical preparation of the return or claim for refund is accomplished by computer not under the control of the individual preparer, then the manual signature requirement of paragraphs (b)(1) and (2) may be satisfied by a manually signed attestation by the individual preparer attached to the return or claim for refund that all the information contained in the return or claim for refund was obtained from the taxpayer and is true and correct to the best of the preparer's knowledge, but only if that information (including any supplemental written information provided and signed by the preparer) is not altered on the return or claim for refund by another person. For purposes of the preceding sentence, the correction of arithmetical or clerical errors discernable from the information submitted by the preparer does not constitute an alteration. The information submitted by the preparer must be retained by the employer of the preparer, and a record of any arithmetical or clerical errors corrected shall be retained by the person required to retain the information submitted by the preparer and made available upon request.

As indicated by the above regulations, there is authority for a return preparer to use attestation sheets under certain defined circumstances. Therefore, we believe [REDACTED] may use attestations sheets for the 1040 PC and PIPER returns provided the requirements of the above regulations are met. We are unable to determine whether the regulations have been met based on the information provided. For us to make a determination, we would have to know whether [REDACTED] loses control of the returns when they

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leave the office or whether this is a means of avoiding the situation in Example 4 of section 1.6695-1(b)(3). Should you have any further questions, Mary Jane Kossar of my staff is familiar with the issues and can be reached on 566-3453.

Assistant Chief Counsel (Income
Tax & Accounting)

(Signed) Norlyn D. Miller, Jr.

By: Norlyn D. Miller Jr., Senior
Technician Reviewer, Branch 4

cc: Lynn Casimir